

In re: John Owlett  
Application No: 10/081,500  
Filed: February 22, 2002  
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## REMARKS

Applicant appreciates the thorough examination of the present application as evidenced by the Final Office Action of January 24, 2006. Applicant respectfully requests reconsideration of the patentability of the pending claims. Applicant respectfully submits that the pending claims are in condition for allowance for at least the reasons discussed herein and in Applicant's Amendment of November 9, 2005 (hereinafter "Applicant's November Amendment").

### The Section 103 Rejections

The Final Office Action maintains the rejections of all the pending claims set out in the previous Office Action of August 9, 2005. In the interest of brevity, Applicant will not repeat all of the arguments set out in Applicant's November Amendment. However, the arguments set out in Applicant's November Amendment are hereby incorporated herein by reference as if set forth in their entirety. Applicant will only respond herein to the new arguments presented in the Response to Arguments section of the Final Office Action.

The Final Office Action states:

The Applicant defines a spoiler in page 8 of the specification as "be[ing] added to the challenge as a prefix or a suffix and the authenticating entity extracts the challenge by counting the number of bytes from the beginning or end of the combined spoiler and challenge." Hara discloses adding padding to data and then encrypting the data along with padding the data, because the data is then better suited for encryption (see paragraphs [0083] and [0084]).

See Final Office Action, page 2. First, the cited portion of Applicant's specification is not the definition of a spoiler as used therein. The cited portion of Applicant's specification is found in the Summary of the Invention, and discusses features of some embodiments of the present invention. The spoiler according to some embodiments of the present invention is added to a challenge to enhance the authentication of a user, thus, providing more security to the users of the system. Applicant does not see how "adding padding to data", i.e. adding a bunch of 1's to the IP datagram, to create a 64 bit datagram, which is easier to encrypt, teaches a spoiler as recited in the claims of the present application. Nothing in Applicant's specification even suggests the addition of bits simply to normalize the encryption process. In fact, the addition of

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1's discussed in Hara would not provide the added level of security provided by a "spoiler" according to some embodiments of the present invention, as the padding is always all 1's and, therefore, easy to figure out. Accordingly, Applicant submits that the cited combination does not teach adding a spoiler to the challenge as recited in the claims of the present invention for at least these additional reasons.

Responsive to Applicant's arguments that there is no suggestion to combine the references, the Final Office Action states:

In this case, the references provide a teaching, suggestion and motivation for combining the references. As disclose in Hara, in particular paragraph [0084], adding padding makes the data to be encrypted better suited for encryption.

*See Office Action, page 3 (emphasis added).* As discussed above, the "spoiler" as recited in the claims of the present application does not just "pad" the data to simplify the encryption process. Accordingly, this teaching of Hara would not provide a motivation to combine the references as suggested in the Final Office Action. Furthermore, the Office Action misinterprets the cited portion of Hara. Nothing in the cited portion of Hara states that the padding makes the encryption "stronger", only that a length of 64 bits is "better suited" for encryption, *i.e.*, easier to encrypt as it is a more standard length. Again, as discussed above, adding all 1's is not going to strengthen the encryption as much as "spoiler", as it would be easy to predict. Furthermore, even if Andersson and Hara could be properly combined, the combination of Andersson and Hara would not teach the recitations of the pending claims for at least the reasons discussed above.

The Final Action further misinterprets Applicant's arguments as the Final Office Action states that Applicant argued that "the question of motivation to add padding is based on subjective belief and unknown authority." See Final Office Action, page 3. In fact, Applicant's argument is that the motivation to combine the references is not found within the references themselves or the art and, thus, the motivation to combine must be found in Applicant's disclosure, which is improper. Furthermore, even if the teaching of padding found in Hara were combined with the teachings of Andersson, the combination does not teach the recitations of the claims of the present application.

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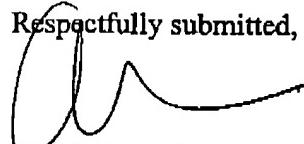
Finally, the Final Office Action states that "it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based on hindsight reasoning." See Final Office Action, page 3. Applicant agrees. However, as affirmed by the Court of Appeals for the Federal Circuit in *In re Sang-su Lee* in a much more recent decision, '[i]t is improper, in determining whether a person of ordinary skill would have been led to this combination of references, simply to "[use] that which the inventor taught against its teacher.'" Thus, the motivation must come from outside the four corners of the application. The Office must point to some teaching in the art or cited references that would motivate a person of skill to combine the references as suggested. The Final Office Action does not point to such a teaching. In particular, Andersson discusses network authentication that uses a conventional challenge responsive to a request. See Andersson, page 3, paragraph 40. Hara, on the other hand, discusses a data transmission method including encryption where the header is padded with 1's to create a 64 bit block that may be well suited for encryption. See Hara, paragraphs 83 and 84. A skilled artisan would not be motivated to combine these references without using the teachings of Applicant's disclosure as a guide.

Accordingly, Applicant respectfully submits that Independent Claims 1, 13 and 14 are patentable over the cited combination for at least these additional reasons. Furthermore, the dependent claims are patentable at least per the patentability of independent Claims 1, 13 and 14 from which they depend. Accordingly, Applicant submits that independent Claims 1, 13 and 14 and the claims that depend therefrom are in condition for allowance, which is respectfully requested in due course.

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### CONCLUSION

Applicant respectfully submits that pending claims are in condition for allowance for at least the reasons discussed above. Thus, allowance of the pending claims is respectfully requested in due course. Favorable examination and allowance of the present application is respectfully requested.

Respectfully submitted,  
  
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